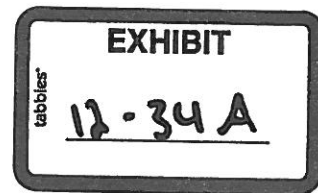




**TOWN OF ELSMERE**  
**APPEAL TO THE BOARD OF ADJUSTMENT**

Any person directly affected by a decision of the Code Enforcement Official or a notice or order issued under this Code shall have the right to appeal to the Board of Adjustment of the Town of Elsmere, provided that a written application for appeal is based on a claim that the true intent of this code or the rules legally adopted there under has been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the Code: 1) provides the same or better protections than what the Code requires and 2) will not cost the Town of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustment may, in its discretion, either enforce the Code as written or permit the proposed alternative action.

Date this Appeal was filed: <u>10/26/12</u>	Petition Number: <u>12-34</u>
Date of the Original Action: <u>10/6/12</u>	Tax Parcel Number: <u>1900800138</u>
Subject Property Address: <u>1218 Maple Ave Wilmington, DE 19805</u>	
Property Owner's Name: <u>Keith Ledeker</u>	Phone Number: <u>302-354-0583</u>
Property Owners Address: <u>1218 Maple Ave Wilmington, DE 19805</u>	
Applicant's Name: <u>Keith Ledeker</u>	
Applicant's Address: <u>1218 Maple Ave Wilmington, DE 19805</u>	
Specific Item Being Appealed: (ex: Citation Number, Petition Number, Order Number, Etc.) <div style="text-align: center; padding: 10px;"><u>See Attached</u></div>	
Reason for the Appeal: <div style="text-align: center; padding: 10px;"><u>See Attached</u></div>	
Relief sought: <div style="text-align: center; padding: 10px;"><u>I ask that the violation/citation be completely removed from my record.</u></div>	
Applicant's Signature: <u>Keith Ledeker</u> Date: <u>10/26/12</u>	



Keith Ledeker  
1218 Maple Ave  
Wilmington, DE 19805  
CUSTOMER #: C-000074  
VIOLATION ID: V3-00171  
October 25, 2012

Town of Elsmere's Board of Adjustment  
ATTN: Craig Hanna  
11 Poplar Ave  
Elsmere, DE 19805

Dear Mr. Craig Hanna:

I am writing this letter to appeal the citation referenced in the header of this letter. This letter is broken into two parts. The first part cites reasons for my appeal. The second part consists of items that I am referencing only to convey to you the difficult times that my wife and I have been having since her car accident on December 7, 2011.

The main reason for the appeal starts with the fact that the grass and weeds were not actually over 8" in height because the ground is un-even. Additionally, the work that was done 8/22/2012 by the public works was very inferior work. I have photos to show that and can share them with you at your request.

My wife cannot stand for more than 5 minutes at a time before requiring a long rest. I am very busy and cannot take care of everything as effectively and efficiently as I used to. Sometimes I do not get out of the house for a few days and do not even realize that a citation has been taped to my front door.

Please consider my appeal and rule in my favor and I will do better to make sure I keep my backyard in an acceptable condition and to at least check the front door for citations on a daily basis.

Sincerely,

Keith H. Ledeker



## THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

### \*\*\*\*\*CITATION\*\*\*\*\*

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

<b>RESPONSIBLE PARTY</b> LEDEKER KEITH H 1218 MAPLE AV WILMINGTON, DE 19805	<b>CITATION #</b>	V3-00171
	<b>OFFICER</b>	DANIEL REED
	<b>VIOLATION DATE</b>	10/06/12
	<b>PROPERTY ADDRESS</b>	1218 MAPLE AV
	<b>ABATEMENT DATE</b>	10/11/12

On the above date, the Code Enforcement Department performed an inspection of the above referenced property. During this inspection, a violation of the Town of Elsmere Code was discovered. The nature of this civil citation is described below.

Specific Violation	Code Section	Due No Later Than	Amount Due
HIGH GRASS/WEEDS AT REAR OF PROPERTY.	PM302-4 HIGH GRASS/WEEDS	11/06/12	\$ 50.00

#### HOW YOU CAN AVOID PAYING THE FINE

If within 48 hours you take the required corrective action and abate the situation you may bring proof of your actions to the Town's Code Enforcement Office within 48 hours of the violation date. If in the opinion of the Code Enforcement Officer the situation has been resolved and the violation no longer exists, the fine portion and only the fine portion of this summons may be waived. The record of a violation occurring, however, shall remain and the property may still be subject to fines associated with being deemed a repeated public nuisance.

#### \*\*\*\*\*CITATION INFORMATION\*\*\*\*\*

In order to process your payment, please write the property address in violation in the memo section of the check or money order, and then mail it with the voucher below. You may also pay your fee in person at Town Hall, 11 Poplar Ave. Elsmere, DE 19805.

#### ABATEMENT COST

If the violation noted above is not corrected by 4:00 pm. on the "ABATEMENT DATE" listed above, the Town will take action to abate the violation. If this becomes necessary in addition to the fine already assessed you will owe to the Town the costs of the abatement.

Should you have any questions please contact the Code Enforcement Department at (302) 998-2215.

The "Amount Due" associated with this violation is a civil penalty and is due by no later than the "Due No Later Than". Additionally if the violation is not abated by the "Abatement Date" shown above, the Town will take action to correct the violation. If this becomes necessary you will be responsible for the payment of all abatement costs incurred by the Town. Failure to pay the "Amount Due" and any abatement costs assessed shall give rise to a lien on the property pursuant to Title 25, Chapter 29, of the Delaware Code. You must pay the amount due by the date shown below, even if the violation has been corrected.

#### Please return this section with your payment.

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
11/06/12	19-00800-138	V3-00171	\$ 50.00

#### Mail Your Payment To:

The Town of Elsmere  
Finance Department  
11 Poplar Avenue  
Elsmere, DE 19805

- Each 24-hour period that the condition giving rise to this citation continues is subject to a separate citation and an additional civil penalty.
- You have the right to appeal this violation by submitting a written application to the Town of Elsmere's Board of Adjustment within twenty (20) days of the date of this violation. MEANS OF APPEAL ARE SHOWN ON THE BACK OF THIS FORM.

**TOWN OF ELSMERE**

11 POPLAR AVE  
ELSMERE, DE 19805  
ATTN: CRAIG HANNA  
TEL: (302)998-2215  
FAX: (302)998-9920

EXT: 104

**EXHIBIT**

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12-34C

INVOICE NO.

I3-01440

INVOICE DATE: 10/10/12

DUE DATE: 11/09/12

CUSTOMER #: C-000074

LEDEKER KEITH H  
1218 MAPLE AV  
WILMINGTON, DE 19805

## VIOLATION INFORMATION

VIOLATION ID: V3-00171

LOCATION: 1218 MAPLE AV

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	CODE-CIT	CODE CITATION 1218 MAPLE AVE IPMC 2000 302.4	50.0000	50.00
			TOTAL INVOICE	<hr/> 50.00

TOWN OF ELSMERE  
11 POPLAR AVE  
ELSMERE, DE 19805

LEDEKER KEITH H  
1218 MAPLE AV  
WILMINGTON, DE 19805

Invoice Id: I3-01440

Customer Id: C-000074

Due Date: 11/09/12

Total Due: 50.00











**BOARD OF ADJUSTMENTS**  
**RULES OF PROCEDURES**  
**NUMBER 1**

**Rules Of Procedures For Appeal Hearings**

**Approved By:**        **The Board Of Adjustments**

**Approved Date:**    **The January 29, 2008 Board Meeting**

**PURPOSE:**

To establish a clearly defined set of Rules and Procedures that will be followed when an Appeal Hearing is to be heard before the Board of Adjustments.

**MAILED**  
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# **BOARD OF ADJUSTMENTS**

## **RULES OF PROCEDURES**

### **NUMBER 1**

#### **Rules Of Procedures For Appeal Hearings**



#### **I. Nature of Proceeding**

##### **Rule 1. Scope and purpose of Rules.**

These Rules shall govern the procedure for Appeals Hearings before the Board of Adjustments of the Town of Elsmere.

##### **Rule 2. Guidelines for Conduct During Hearing**

The Board of Adjustments has the authority to establish any and all guidelines for conducting the hearing, including establishing time constraints, maintaining order during the hearing, and limiting the number of witnesses to testify.

#### **II. Evidence and Witnesses**

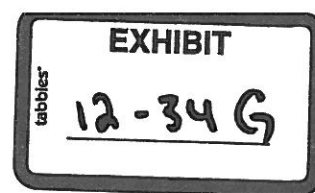
##### **Rule 3. Presentation of Evidence at Hearing**

Except as limited by Rules 4-7, any party to an appeal may present both testimonial and documentary evidence.

**Rule 4.** Exchange of Evidence Copies of all exhibits, except exhibits intended solely for impeachment, must be served on any other party or parties at least five days prior to the hearing. If a party fails to serve the exhibits within five days prior to the appeal, the Board of Adjustments may, at its discretion, refuse to accept that evidence unless good cause is shown as to why the exhibits were not served on the other parties.

##### **Rule 5. Witness Lists**

At least five days prior to the hearing, each party must identify in writing the witnesses it intends to call at the hearing. If a party fails to identify its witnesses within five days prior to the appeal, the Board of Adjustments may, at its discretion, refuse to hear testimony from those witnesses unless good cause is shown as to why the exhibits were not served on the other parties.



**Rule 6. Oath or Affirmation**

Unless waived by all parties, witnesses' testimony is to be under oath or affirmation.

**Rule 7. Rules of Evidence**

Generally, the Delaware Rules of Evidence shall be used as a guide to the admissibility of evidence at the hearing. However, the Board of Adjustments may accept any evidence it deems to be reliable.

**III. Hearing**

**Rule 8. Transcript of Hearing**

A party at its expense may, on ten days prior written notice to the Board of Adjustment and any other parties, have a transcript made of the hearing.

**Rule 9. Opening Statements and Closing Arguments**

The parties are permitted to make an opening statement and closing argument.

**Rule 10. Format of Hearing**

The hearing will proceed as follows:

- 1) Any preliminary matters that must be addressed prior to the Board of Adjustments hearing the evidence;
- 2) Opening Statements;
- 3) Witnesses for the Appellant;
- 4) Witnesses for the Appellee;
- 5) Rebuttal Evidence by the Appellant;
- 6) Closing Arguments;
- 7) Ruling by the Board.



**IV. Ruling by the Board****Rule 11. Decision by Board**

Following the hearing of evidence, the Board of Adjustments will vote and each member shall state the reasons for the member's vote. The Board of Adjustments shall affirm, modify, or reverse the decision of the code official only by a majority vote of the members of the Board present.

**Rule 12. Adjournment of Hearing to Consider Evidence**

The Board of Adjustment may adjourn the hearing for up to ten days to consider the evidence before making a decision.

Adopted by the Board of Adjustments at their January 29, 2008 public meeting.

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James Personti, Secretary

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Paul Chalfant, Chairman



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

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12-34 I

## Witness List

Mayor

Deborah A. Norkavage

1<sup>st</sup> District Councilman

John Jaremchuk Jr.

2<sup>nd</sup> District Councilman

Steven Burg

3<sup>rd</sup> District Councilman

Robert Kaeperski

4<sup>th</sup> District Councilman

Charles McKewen

5<sup>th</sup> District Councilwoman  
Secretary of Council

Joann I. Personti

6<sup>th</sup> District Councilman

Richard Moore

Town Treasurer

Paul Chalfant

City Solicitor

Edward McNally

The following is a potential list of witnesses that may be called to testify during your appeal hearing.

1. Code Officer Dan Reed

2. Code Officer Brian Swift

3. Town Manager John Giles

4. \_\_\_\_\_

5. \_\_\_\_\_

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**MAILED**  
11/15/12